

DECISION

18857
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-199197

DATE: July 20, 1981

MATTER OF: Mary L. Caudill ^{Claim for} - Mileage while on temporary duty near headquarters]

DIGEST: Employee of Internal Revenue Service who drove daily to temporary duty site near her headquarters claims mileage for travel between residence and temporary duty station. Agency regulation requires reduction in mileage beginning sixth day of assignment to temporary duty station. Limitation on mileage reimbursement in such situations is within the agency's discretion.

This action is in response to a request from an authorized certifying officer of the Central Region, Internal Revenue Service (IRS), Department of the Treasury, as to the propriety of paying the claim of Ms. Mary L. Caudill, a Revenue Agent, for mileage costs from her residence to her temporary duty station and return on regular workdays. The circumstances in which the disputed mileage occurs are when the employee uses her privately owned automobile to commute from her residence to her temporary duty site, which is located approximately two and one-half blocks from her official duty station in Ashland, Kentucky.

Section 252(4)(b) of the Internal Revenue Manual 1763 states that an employee must bear the cost of transportation between his residence and his place of duty at his official station and that work assignments shall be arranged so that no unnecessary commuting transportation expenses will be incurred. In addition, section 252(4)(c) of the cited manual provides that when an employee is assigned to a single temporary duty point for an extended period and the employee's daily travel is directly between her residence and the temporary duty point, reimbursement will be limited, beginning with the sixth workday. In Ms. Caudill's circumstances, the regulation limits reimbursement beginning with the sixth day to the mileage from the official station to the temporary duty point, which as indicated above is two and one-half blocks.

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The essence of Ms. Caudill's position is summarized by her in a memorandum dated May 27, 1980, which states, in pertinent part, as follows:

"Your memorandum of May 15, 1980, designates the Ashland Oil audit site (1401 Winchester Avenue, Ashland, Kentucky) a temporary duty point under the provisions of Section 252(4)(c), IRM 1763. To my knowledge, no taxpayer's office in this District has ever been designated a temporary duty point regardless of its proximity to an official duty station or of the duration of an audit. For this reason and in view of the very limited definition of a "temporary duty station" provided by Section 114(1)(d), IRM 1763, I feel that some interpretation as to the applicability of Section 252(4)(c) is required."

The definition of "temporary duty station" to which Ms. Caudill refers is found in the cited manual in section 114(1)(d) and reads as follows:

"(d) Temporary duty station-- This term refers to a location to which an employee is sent temporarily to perform official business. Per diem (see (e) below) allowances while on temporary duty are determined by the provisions covering the employee's commuting area. See 312."

Mileage allowances are to be prescribed in accordance with Federal Travel Regulations (FPMR 101-7) (May 1973) which provide that the mileage rate may be paid from whatever point the employee begins his journey. FTR para. 1-4.1b(1). The general rule governing the reimbursement of mileage for employees using their privately owned vehicle on Government business was set forth in 36 Comp. Gen. 795, 797 (1957) as follows:

"* * * where an officer or an employee is properly authorized to use a privately-owned automobile

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for official business, it is within administrative discretion to allow him mileage from whatever point he begins his journey with no requirement that there be deducted from the computation of such mileage the distance that the employee would normally travel between his home and his headquarters, irrespective of whether he performs duty on that day within or without the corporate limits of his headquarters city or at his headquarters office. The administrative officials, however, in exercising their discretionary power in this matter are to give due consideration to the interests of both the Government and the employee. Where appropriate they may and should in the exercise of this discretion restrict the mileage allowable, by way of a reduced rate or distance." (Emphasis added.)

Accordingly, an employee's entitlement to mileage for travel, whether to one or more duty sites in a day is governed by such regulations as an agency prescribes, giving due consideration to the interests of the Government and the employee. Therefore, it is a proper exercise of administrative discretion for an agency to issue regulations which impose restrictions on the mileage allowance which may be paid to its employees. William A. Gates, B-188862, November 23, 1977.

It is well established that employees must place themselves at their regular places of work and return to their residences at their own expense. 32 Comp. Gen. 235 (1952). As indicated above, our decisions have also held that when an employee is assigned to a nearby temporary duty post he may be reimbursed his full travel expenses or only that amount which exceeds his normal commuting expense to his permanent duty station. 36 Comp. Gen. 795, supra.; 32 id. 235, supra. The determination to limit reimbursement for travel to a temporary duty station is within the discretion of the employing agency with due consideration given to the interests of both the Government and the

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employee, and it is not within the jurisdiction of our Office to question the decision of the agency to so limit travel reimbursement. See Brian E. Charnick, B-184175, June 8, 1979. We cannot say here, in view of the very short distances involved, that the refusal of the IRS to allow mileage beginning with the sixth day of travel to a temporary duty point is an abuse of discretion. Customs Service Inspectors, B-191104, May 9, 1979. Further, we note that the action taken by the IRS is consistent with and mandated by the cited provisions in the IRS manual.

Ms. Caudill has additionally challenged the limitation placed on her reimbursement which restricts payments to 100 miles during each of the first five workdays at a temporary duty station. The basis for the limitation is found in section 252(4)(b) of the Internal Revenue Manual 1763 which states that in circumstances where an employee's first and/or last official assignment of a day is en route or by circuitous routing between residence and official station, the mileage entitlement shall be reduced by the miles in excess of 50 that the residence is from the official station. This provision is made applicable to Ms. Caudill's situation by the illustration found in section 252(5)(c) of the cited manual which provides as follows:

"an employee drove from home to one or more points on official business, then returned home. He/she is entitled to reimbursement for all mileage incurred (subject to the 50 mile limitation as provided in 252(4)(b)), whether or not he/she reported to the office during the day, as long as he/she did not travel directly either way between home and office."

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Ms. Caudill also objects to her supervisor's determination that any future reassignment to other Ashland Oil locations near the IRS Office will not restart the 5-day period under section 252(4)(c) of IRM 1736. Such travel does not appear on the voucher submitted by Ms. Caudill, and this Office does not normally respond to hypothetical questions.

Accordingly, the claim of Ms. Caudill is denied.

A handwritten signature in cursive script, reading "Milton J. Sorolow".

Acting Comptroller General
of the United States